REMARKS

Claims 1, 3-7, 11, 12, 14, 16, 17, 22, and 23 has been amended to clarify the claimed invention, correct grammatical errors, and/or to correct typographical errors. Claims 1-23 remain pending in the present application and are presented for reconsideration by the Examiner.

Claim Rejections Under 35 U.S.C. §112

Claims 1-23 have been "rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention" In particular, the Examiner asserts that in claim 1 "[t]he term "bar" is introduced without proper antecedent" and that, with regard to "modal point", "[i]t is not clear how a price interval can be a point".

The courts have clearly stated the proper grounds for a rejection under 35 U.S.C. §112, second paragraph as being:

> whether one skilled in the art would understand the bounds of the claim when read in light of the specification.... If the claims read in light of the specification reasonably apprise those skilled in the art of the scope of the invention, §112 demands no more. . . . The degree of precision necessary for adequate claims is a function of the nature of the subject matter. Miles Laboratories, Inc. v. Shandon Inc., 997 F.2d 870 (Fed. Cir. 1993), cert. denied, 510 U.S. 1100 (1994).

In the present application claim 1, as amended, clearly introduces the term "bar" with the recitation of plotting a plurality of bars. Each interval on the chart has a bar, of the plurality of bars, associated with it. Claim 1 further recites, in

part, that each bar indicates at least a high price and a low price traded by the market during the associated time interval of the bar and each bar is vertically displayed on said chart. The term "bar" as used in amended claim 1 and any of claims 2-23 is proper under 35 U.S.C. §112, second paragraph since the scope of the claims would be reasonably ascertainable by those skilled in the art. As such, a proper rejection of claims 1-23 under 35 U.S.C. §112, second paragraph cannot be made.

Applicants have amended claim 1 wherein the term "modal point" is more clearly recited as the highest trading activities for a price in the time interval. Applicants believe this clarification obviates any proper rejection of claims 1-23 under 35 U.S.C. §112, second paragraph based on the term "modal point".

Claim Rejections Under 35 U.S.C. §102

Claims 1-23 have been rejected under 35 U.S.C. §102(e) as being anticipated by United States Patent No. 6,272,474 to Garcia, wherein it is asserted that Garcia teaches each of the claimed limitations. Applicants respectfully note the proper standard under 35 U.S.C. §102 for finding anticipation is that the prior art must disclose each and every limitation found in the claims, either expressly or inherently. Rockwell International Corp. v. United States, 147 F.3d 1358, 1363 (Fed. Cir. 1998); Electro Med System S.A. v. Cooper Life Sciences, 34 F.3d 1048, 1052 (Fed. Cir. 1994). Furthermore, the omission of any claimed element no matter how insubstantial is grounds for traversing a rejection based on Section 102. Connell v. Sears Roebuck & Co.,

772 F.2d 1542 (Fed. Cir. 1983). A rejection under 35 U.S.C. §102 is improper since Garcia does not, at a minimum, disclose representing on a computer display device each element of said set of intra-market elements by a first geometric figure onto said bar, wherein the set of discrete intra-market elements comprising at least one of a continuous price range containing substantially high trading activities –active range, the highest trading activities for a price in the time interval– modal point, and a continuous price range containing substantially low trading activities – extreme tail. As is clear from the application as filed, the "model point", "active range", and "extreme tails" represent the price distribution within the chart interval. This price distribution is based on the volume (or the time) of the trades within the interval. This simply is not found in the Garcia reference. In stark contrast, Garcia's BID/ASK bar shows the participation of BID/ASK activity according to the volume, but does not show how the actual executed transaction is distributed within the interval.

Simply stated, as discussed above, the set of intra-market elements of modal point, active range, and extreme tails are not disclosed in Garcia. As such, a proper rejection under 35 U.S.C. §102 cannot be made.

Furthermore, in response to the Examiners' Response to Arguments with regard to the extreme tails, the claimed element of the extreme tails clearly shows the trade prices at substantial low trading activities in the interval. In contrast, the Garcia's bar tail represents only the price range between the "open" and "high", or "close" and "low". Applicants respectfully refer the Examiner to definition of "Extreme Tails" as disclosed in the application as filed, wherein the

extreme tails are a continuous price range at both ends of the bar which contains minimal trading activities. As disclosed, the extreme tails represent the price range on the bar high or bar low which encompasses approximately 2.8% of all trading activities, either by time or volume, and that price range with only 1-2 base time units. It should be noted that the market does not trade in this range during the last predefined interval of the bar. For example, the Applicants direct the Examiner's attention to pages 21-22 of the specification as filed. It is clear that the Garcia reference does not disclose the claimed extreme tails. As such, a proper rejection under 35 U.S.C. §102 cannot be made.

Claims 2-23 Are Not Anticipated

Applicants respectfully note that the Examiner has not addressed the Applicants' illustrative listing of elements not disclosed in Garcia that was included in Applicants' July 2, 2004 Response to Office Action.

Applicants are extremely concerned that the Examiner has overlooked the illustrative listing in contravention of the requirements imposed on the Examiner by the applicable patent laws, regulations, and procedures. In particular, the Examiner's attention is respectfully directed 37 C.F.R. §1.104 Nature of Examination, wherein the section recites, in part:

> (a) Examiner's action. (1) On taking up an application for examination or a patent in a reexamination proceeding, the Examiner shall make a thorough study thereof and shall make a thorough investigation of the available prior art relating to the subject matter of the claimed invention. **The examination shall be complete with respect ...to the patentability of the invention as**

claimed (emphasis added), as well as with respect to matters of form, unless otherwise indicated.

Applicants note that the Examiner's assertion of anticipation of the claims by Garcia is on its face improper since the Examiner has not shown that Garcia discloses all of the claimed elements. Applicants again respectfully direct the Examiner's attention to the following illustrative listing of claims and elements not disclosed in Garcia:

claim 8, graphically representing on a computer display device a price interval with the highest trading activities by a dot; **claim 9**, said second geometric figure is a vertical line with a predefined width and color connecting the high and low of said price range; **claim 10**, graphically representing on a computer display device said continuous price range with substantially low trading activities on said bar by a third geometric figure; **claim 11**, said third geometric figure is a vertical line with predetermined width and color connecting the high and low price of said price range; **claim 12**, graphically representing on a computer display device at least one continuous price range with substantially high trading activities by a fourth geometric figure and overlaying said fourth geometric figure onto said bar, said fourth geometric figure being a rectangle with a predetermined width and length, said rectangle has vertices with Y-coordinates; **claim 13**, said rectangle is hollow if a close price is higher than an open price indicated by said bar, and is filled if the close price is lower than the open price of said bar; **claim 14**, said price-time chart is a Japanese Candlestick Chart and said rectangle has an identical width with a body of said bar, and said rectangle contains a pattern to

distinguish it from the body of said bar; **claim 15**, said pattern is a slanted stripe pattern; and **claim 20**, graphically representing on a computer display device each intra-market element of said set of intra-market elements by a fifth geometric figure and overlaying said fifth geometric figure onto the bar. As such a proper rejection of these claims have not been made.

Claims 1-23 Are Non-Obvious Under a Proper 35 U.S.C. §103 Analysis

The claims 1-23 are additionally non-obvious with regard to Garcia since there is at the minimum no suggestion or motivation present in the teaching or disclosure of Garcia, or within the knowledge of one of ordinary skill in the art as evidenced by, at least, the references cited in the Office Action, to do what the Applicants have done in the claimed invention. For example, at a minimum Garcia does not teach or suggest representing on a computer display device each element of said set of intra-market elements by a first geometric figure onto said bar, wherein the set of discrete intra-market elements comprising at least one of a continuous price range containing substantially high trading activities – active range, the highest trading activities for a price in the time interval– modal point, and a continuous price range containing substantially low trading activities – extreme tail. In addition, Garcia does not teach or suggest the elements listed above with regard to claims 8-15 and 20. Applicants note that as thoroughly discussed in a recent court holding:

> "...the essential factual evidence on the issue of obviousness is set forth in Graham v. John Deere Co., 383 U.S. 1, 17-18, 148 USPQ

459, 467 (1966) and extensive ensuing precedent. The patent examination process centers on prior art and the analysis thereof. When patentability turns on the question of obviousness, the search for and analysis of the prior art includes evidence relevant to the finding of whether there is a teaching, motivation, or suggestion to select and combine the references relied on as evidence of obviousness. See, e.g., McGinley v. Franklin Sports, Inc., 262 F.3d 1339, 1351-52, 60 USPQ2d 1001, 1008 (Fed. Cir. 2001) ("the central question is whether there is reason to combine [the] references," a question of fact drawing on the Graham factors)." In re Lee, 61 USPQ2d, 1430 (Fed. Cir. 2002)

Such a rigorous examination required by law clearly would find the claimed invention non-obvious based on at least a study of the problem to be solved by the Applicants, and the functionality of the claimed invention.

In summary, Applicants have addressed each of the objections and rejections within the present Office Action. It is believed the application now stands in condition for allowance and prompt favorable action thereon is earnestly solicited.

Respectfully Submitted,

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